IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 574 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SUBHASHRAI RAMSNESHIRA RANJITSINGH

Versus

STATE OF GUJARAT

Appearance:

MR PR NANAVATI for Petitioner

MR RC KODEKAR for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/05/2001

ORAL JUDGEMENT

#. The learned counsel for the petitioner submits that this matter is squarely covered by decision of this court in Special Criminal Application No.575/99 decided on 2.7.99 (Coram: A.K.Trivedi, J.). The learned counsel for the petitioner further submits that the petitioner in

this case and the petitioner in the case aforesaid are co-accused in criminal complaint No.215/98. The petitioner herein also is a security guard as what the petitioner in that petition was.

#. In connection with the criminal complaint aforesaid, a twelve bore licenced gun of the petitioner was recovered and it is a Muddamal in the aforesaid criminal case. The petitioner applied for giving of temporary custody of that 12 bore gun to the petitioner to the Metropolitan Magistrate concerned but that application was came to be rejected on the ground that offence are triable by the court of Sessions and therefore, the said Muddamal cannot be handed over to the petitioner. The petitioner preferred revision application which was dismissed by the Addl. City Sessions Judge, Court No.18, at Ahmedabad, on the ground that the licence of the gun of the petitioner has expired and there is no proof of further renewal thereof. The learned counsel for the petitioner submitted that licence of the petitioner has been renewed upto 31st December, 2001. In support of this, he relied on Annexure-B.

#. Reply to the special criminal application has not been filed by respondents and as a result of which, the averments made by petitioner in the petition stand uncontroverted. This matter was admitted on 30.11.2000 but till date, reply has not been filed. On 18.1.2001, this matter has come up for hearing before this court. On that date, the learned counsel for the petitioner made a statement that the gun licence of the petitioner has been renewed. The petitioner also showed renewal entry of licence in the licence book. The court adjourned the matter in the larger interest of justice so that the other side may have opportunity to get verification from the authority whether what it is stated by learned counsel for the petitioner is correct or not. Thereafter, this matter was adjourned on 8.2.2001, 29.3.2001, 9.2.2001 and 12.4.2001 for taking verification from the authority concerned, re.: renewal of licence of gun of the petitioner but nothing has been done.

#. It is not disputed that the petitioner in special criminal application No.575 of 1999 is also an accused in the same criminal complaint in which this petitioner is an accused. So this matter is squarely covered by the judgment of this court if what the petitioner stated in paragraph 3.1 of the petition is correct. From the document Annexure-B, I do not find the endorsement of renewal of licence of the gun of petitioner upto 31st December, 2001. Merely because this fact has not been

denied by respondents, it is very risky to accept it to be true.

#. In the result, this petition succeeds and the same is allowed and the order of the learned Addl. City Sessions Judge, Court No.18, Ahmedabad, dated 5.2.99 in Criminal Revision Application No.39/99 is quashed and set aside. The learned Addl. City Sessions Judge, Court No.18, Ahmedabad, is directed to restore the criminal revision application to its original number and decide the same in the light of the decision given by this court in the special criminal application No.575/99 and the observations made in this judgment. In case, the petitioner proves to the satisfaction of the revisional court the fact of renewal of gun licence upto 31st December, 2001, it is expected from the court that it will pass appropriate order for giving custody of the gun to the petitioner. Rule is made absolute accordingly. No order as to costs.

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(sunil)